

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re:

Acacia Media Technologies Corp.

NO. C 05-01114 JW
NO. M 05-01665 JW

[PROPOSED] JUDGMENT

WHEREAS the Court issued a [Corrected] Order Granting Defendants' Motions for Summary Judgment ("Order"), (D.I. [350] _____), holding all of the asserted claims invalid as being indefinite pursuant to 35 U.S.C. § 112, ¶ 2;

WHEREAS the Court has issued multiple orders construing terms and phrases contained in the asserted claims of the patents-in-suit, (*see, e.g.*, D.I. 119, 216, 220, 259, 266, *see also* D.I. 124 from 02-CV-01165-JW-MLG);

WHEREAS, for the reasons set forth in the aforementioned Order, all of the claims asserted by Plaintiff Acacia Media Technologies Corp. (“Acacia”) against the remaining defendants in the MDL proceeding, including Echostar Satellite LLC, Echostar Technologies Corp., DIRECTV Group, Inc., Time Warner Cable Inc., CSC Holdings, Inc., Hospitality Network, Inc., Cable America Corp., Comcast Cable Communications LLC, Coxcom Inc., Insight Communications Company, Inc., Charter Communications, Inc. (solely to the extent authorized by the Bankruptcy Court), Armstrong Group, Wide Open West LLC, Block Communications Inc., East Cleveland Cable TV and Communications LLC, Massillon Cable TV Inc., NPG Cable Inc., Mid-Continent Media, Inc., US Cable Holdings LP, Sjoberg’s Cablevision, Inc., Savage Communications Inc., Loretel Cablevision, Cannon Valley Communications, Inc., Arvig Communication Systems, Cable One, Inc., Mediacom Communications

1 Corporation, Bresnan Communications, Cequel III Communications I, LLC (dba
2 Cebridge Connections), Game Link Inc., ACMP LLC, Cybernet Ventures Inc., Global
3 AVS Inc., National A-1 Advertising Inc., AEBN Inc., Ademia Multimedia LLC,
4 Audio Communications Inc., Cyber Trend Inc., Innovative Ideas International, Adult
5 Revenue Service, Lightspeed Media Group Inc., New Destiny Internet Group LLC, VS
6 Media Inc., Offendale Commercial Limited BV, AskCS.com, Inc., and International
7 Web Innovations Inc. (collectively, “Defendants”), have now been adjudicated;
8

9 **WHEREAS** the Court requested in the aforementioned Order that the parties
10 submit a joint Proposed Judgment; and

11 **WHEREAS**, in light of the foregoing and for the reasons set forth in the
12 aforementioned Order, entry of judgment is warranted in favor of all Defendants with
13 respect to Acacia’s claims for relief.

14 **THE COURT HEREBY FINDS THAT** there is no just reason for delay of
15 entry of final judgment in favor of Defendants and against Acacia.

16 **THEREFORE, IT IS HEREBY ORDERED** that

17 (1) Judgment is granted to Defendants on their counterclaims of invalidity
18 under 35 U.S.C. § 112, ¶ 2 as to U.S. Patent Nos. 5,132,992 (“‘992 patent”), 5,550,863
19 (“‘863 patent”), 6,002,720 (“‘720 patent”), and 6,144,702 (“‘702 patent”) for the
20 reasons set forth in the aforementioned Order; judgment is granted to Defendants on
21 Acacia’s claims for infringement, and on Defendants’ counterclaims for a declaration
22 of non-infringement, of the ‘992 patent, the ‘863 patent, the ‘720 patent, and the ‘702
23 patent for the reasons set forth in the aforementioned Order, and, accordingly Acacia’s
24 claims are dismissed on the merits; judgment is granted to Defendants on Acacia’s
25 claims for infringement, and on Defendants’ counterclaims for a declaration of non-
26 infringement, of U.S. Patent No. 5,253,275 (“‘275 patent”) because Acacia has
27 withdrawn all asserted claims of the ‘275 patent; Acacia’s state law claims, and
28 Defendants’ remaining counterclaims, are hereby dismissed without prejudice.

(2) **FINAL JUDGMENT** is hereby entered in favor of Defendants and against Acacia;

(3) Defendants are the prevailing parties and each shall be entitled to be awarded its costs of suit.

Defendants' Proposal:

[4] The deadline for Defendants to move for attorneys' fees pursuant to Federal Rule of Civil Procedure 54(d)(2) and 35 U.S.C. § 285 is hereby extended to sixty days after the final resolution of any appeal of this Judgment. Depending on the nature of the resolution, or other factors, the Court may adjust this date again in the future.]

Acacia's Proposal:

Defendants' proposed Paragraph 4 should not be included. Any further motions should be brought within the time prescribed by the Federal Rules of Civil Procedure.

SO ORDERED.

Dated:

HON. JAMES WARE
UNITED STATES DISTRICT JUDGE